

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

October 30, 2024  
9:30 AM

=====X  
IN RE:

Case No. 124-43677-NHL

DAVID COHEN,

Hon. NANCY HERSHEY LORD  
**NOTICE OF MOTION**

Debtor.

=====X

PLEASE TAKE NOTICE, that upon the within application, Krista Preuss, Chapter 13 Trustee will move this court before the Hon. Nancy Hershey Lord, U.S. Bankruptcy Judge, at the United States Bankruptcy Court, on October 30, 2024 at 9:30 AM or as soon thereafter as counsel can be heard, for an order pursuant to 11 U.S.C. 1307(c) dismissing this Chapter 13 case and for such other and further relief as may seem just and proper.

**PLEASE TAKE FURTHER NOTICE, that any hearing on the within application will be held by telephone or video conference only. No in-person hearing will be held in the Courthouse.**

All participants (including attorneys, clients, and pro se parties) shall register their appearances through the Court's eCourt Appearances program, by following the instructions set forth on the Court's website, at <https://www.nyeb.uscourts.gov/content/judge-nancy-hershey-lord>. Once registered, eCourt Appearances will email the dial-in information to each participant. Those registering with eCourt Appearances for hearings in less than 48 hours should allow up to 15 minutes after registration to receive the email with the telephone number. Those unable to access eCourt Appearances must email Judge Nancy Hershey-Lord's Courtroom Deputy at: [nhl\\_hearings@nyeb.uscourts.gov](mailto:nhl_hearings@nyeb.uscourts.gov) at least two (2) business days prior to the hearing. Your email must include your name, the case number(s), who you represent (if you are an attorney), hearing date, and phone number.

Responsive papers shall be filed with the bankruptcy court and served upon the Chapter 13 Trustee, Krista Preuss, Esq., no later than seven (7) days prior to the hearing date set forth above. Any responsive papers shall be in conformity with the Federal Rules of Bankruptcy Procedure and Local Bankruptcy Rules for the Eastern District of New York and indicate the entity submitting the response, the nature of the response and the basis of the response.

Date: Jericho, New York  
October 9, 2024

/s/ Krista Preuss  
KRISTA PREUSS, TRUSTEE  
100 JERICHO QUADRANGLE, STE 127  
JERICHO, NY 11753  
(516) 622-1340

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

October 30, 2024  
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IN RE:

Case No: 124-43677-NHL

DAVID COHEN,

Hon. NANCY HERSHEY LORD

**APPLICATION**

Debtor.  
=====X

TO THE HONORABLE NANCY HERSHEY LORD U.S. BANKRUPTCY JUDGE:

Nathan Z. Kaufman, Staff Attorney to KRISTA PREUSS, Chapter 13 Trustee in the above-captioned estate, respectfully represents the following:

1. The Debtor filed a petition under the provisions of 11 U.S.C. Chapter 13 on September 4, 2024, and, thereafter, KRISTA PREUSS was duly appointed and qualified as Trustee.

2. On September 4, 2024, in part 5 of the petition, the Debtor certified that a briefing from an approved credit counseling agency had been received within the 180 days prior to the filing of the bankruptcy petition, but did not have the certificate available to file with the Court.

3. A review of the Court's docket indicates that the Court did not enter an Order extending the time for the Debtor to obtain and file the Certificate of Credit Counseling. Moreover, as of the date of this application the Debtor has failed to file a Certificate of Credit Counseling from an approved nonprofit budget credit counseling agency as required by 11 U.S.C. § 521(b)(1).

4. The Debtor has also failed to file all required documents pursuant to 11 U.S.C. §521(a) and Fed. R. Bankr. P. 1007(b). The missing documents include without limitation:

a. 60 days of payment advices.

5. Furthermore, the Debtor has failed to:

a. commence making Chapter 13 Plan payments to the Trustee as required by 11 U.S.C. § 1326(a)(1); and

b. file a Chapter 13 Plan, pursuant to by 11 U.S.C §1321 and Fed. R. Bankr. P. 3015(b); and

c. provide the Trustee with a copy of a federal income tax return or transcript for the most recent year, 7 days before the first meeting of creditors pursuant to 11 U.S.C. §521(e)(2)(A)(i); and

d. provide the Trustee with disclosure documentation as required by E.D.N.Y LBR 2003-1; and

e. appear and be examined at the Section 341 Meeting of Creditors as required by 11 U.S.C. §343.

6. A delay has occurred that is prejudicial to the rights of creditors. The case must be dismissed under 11 U.S.C. § 1307(c)(1) and (c)(5).

7. Each of the foregoing constitutes cause to dismiss this Chapter 13 case within the meaning of 11 U.S.C. §1307(c).

WHEREFORE, the Chapter 13 Trustee respectfully requests that this Court enter an Order dismissing this Chapter 13 case, and such other and further relief as may seem just and proper.

Dated: Jericho, New York  
October 9, 2024

s/Nathan Z. Kaufman  
Nathan Z. Kaufman, Staff Attorney  
Chapter 13 Trustee Krista Preuss

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

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IN RE:

DAVID COHEN,

Debtors.  
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Case No: 124-43677-NHL

CERTIFICATE OF SERVICE

I, Nathan Z. Kaufman, declare under penalty of perjury that I have sent the attached document to the below listed entities in the manner shown, and prepared the Certificate of Service and that it is true and correct to the best of my information and belief.

Notice by first class mail was sent to the following persons/entities:

DAVID COHEN  
416 MILLER AVENUE  
BROOKLYN, NY 11207

Notice by electronic transmission generated by the ECF system to the following person/entities pursuant to Bankruptcy Rule 9036:

U.S. Bank Trust Company, N.A. c/o Robertson, Anschutz, Schneid, Crane & Partners, PLLC,  
[raqfelix@raslg.com](mailto:raqfelix@raslg.com)

Transmission times for electronic delivery are Eastern Time zone.

This October 9, 2024

/s/Nathan Z. Kaufman

Nathan Z. Kaufman, Staff Attorney  
Office of the Standing Chapter 13 Trustee  
Krista Preuss  
100 Jericho Quadrangle; Ste 127  
Jericho, NY 11753  
(516) 622-1340

CASE NO: 124-43677-NHL  
Hon. NANCY HERSHEY LORD

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

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IN RE:

DAVID COHEN,

Debtor.

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NOTICE OF MOTION AND APPLICATION TO DISMISS CASE

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KRISTA PREUSS, TRUSTEE  
100 JERICO QUADRANGLE, STE 127  
JERICO, NY 11753  
(516) 622-1340